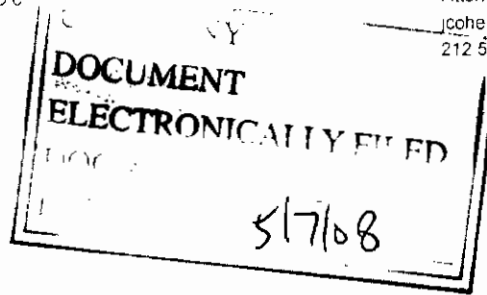


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May 5, 2008

BY HAND

The Honorable Richard J. Sullivan
United States District Court
Southern District of New York
500 Pearl Street, Room 615
New York, New York 10007

Re: Time Square Construction, Inc. v. BCTC, et. al, Case No. 07 CIV 07403 (RJS)

Dear Judge Sullivan:

We represent the plaintiff, Time Square Construction, Inc. ("Time Square"). We submit this letter on behalf of the parties to this action pursuant to the Court's Individual Practice Rule 2F. We write to request a conference to address certain discovery issues that have arisen in this litigation. The parties are available for such conference on May 29 and 30, 2008.

First, we have been unable to agree on an appropriate confidentiality stipulation. Time Square has refused to produce documents absent such an agreement since the defendants have requested, and plaintiff will produce, financial information and contracts that plaintiff believes contain confidential and proprietary information. Most defendants have refused to enter into any confidentiality agreement whatsoever. Others take issue with the terms of the agreement proposed by Time Square.

Second, Time Square seeks the Court's guidance regarding managing discovery in this action on an ongoing basis. To date, each defendant has submitted at least one set of document requests, the vast majority have propounded interrogatories, and many have sent correspondence identifying perceived deficiencies in Time Square's written responses to document requests and interrogatories. Time Square believes that the defendants should coordinate their efforts in propounding additional discovery requests, identifying deficiencies in discovery responses, and depositions, in order to avoid substantial unnecessary costs to all parties. The defendants assert that their interests are not aligned and, therefore, they cannot coordinate these efforts.

Finally, as noted above, certain defendants have identified deficiencies in Time Square's written responses to document requests and interrogatories. Other defendants may also identify such deficiencies prior to or at the conference.


The Honorable Richard J. Sullivan

May 5, 2008

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In addition to numerous phone discussions and correspondence, the parties held a telephonic meet and confer yesterday, May 1, 2008, in an attempt to resolve these issues. That conference lasted approximately ten to fifteen minutes. Joy Mele, Esq., Lowell Peterson, Esq., James Steinberg, Esq., Bruce Levine, Esq., Bruce Cooper, Esq., Matthew Pettigrew, Esq., Norman Rothfeld, Esq., Jane Lauer Barker, Esq., Carol O'Rourke Pennington, Esq., Richard Brook, Esq., Erin Doherty, Esq., Leila Pittaway, Esq. and myself participated in that conference.

Respectfully submitted.


Joel E. Cohen

cc: Carol O'Rourke Pennington (by e-mail)
Richard S. Brook (by e-mail)
Bruce Jay Cooper (by e-mail)
Gary Rothman (by e-mail)
Richard H. Markowitz (by e-mail)
Lowell Peterson (by e-mail)
Norman Rothfeld (by e-mail)
Bruce Steven Levine (by e-mail)
Jane Lauer-Barker (by e-mail)
James M. Steinberg (by e-mail)

The discovery disputes described herein are referred to Magistrate Judge Debra Freeman for resolution. Magistrate Judge Freeman shall retain this matter for all subsequent general pre-trial matters, including scheduling, discovery, non-dispositive motions, and settlement.


SO ORDERED
Dated: 5/6/08 **RICHARD J. SULLIVAN**
U.S.D.J.